Anti-Cross-Border Corruption Law of the People’s Republic of China (the PRC)

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Chapter I — General Provisions

Article 1 — This Law is enacted in accordance with the Constitution for the purposes of preventing and punishing cross-border corruption, deepening international cooperation against corruption, safeguarding national sovereignty, security and development interests, and promoting the building of a fair and just global anti-corruption governance system.

Article 2 — For the purposes of this Law, "cross-border corruption" means the following acts:

(1) acts of bribery by domestic citizens and domestic enterprises, other organizations and their branches and subsidiaries against foreign public officials or officials of international public organizations, or acts of bribery committed within the territory of China by overseas personnel and overseas enterprises, other organizations and their branches against foreign public officials or officials of international public organizations;

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(2) acts of bribery by overseas personnel and overseas enterprises, other organizations and their branches against domestic public officials and their specified related persons, or against state organs, state-owned enterprises, public institutions and people's organizations, as well as the related acts of accepting bribes;

(3) duty-related illegal acts or duty-related crimes such as embezzlement and bribery, abuse of power, neglect of duty, rent-seeking through power, transfer of benefits, malpractice for personal gain, and waste of state assets, other than those prescribed in the preceding two items, committed overseas by domestic citizens and domestic enterprises, other organizations and their branches and subsidiaries;

(4) other corrupt acts of the same nature as the acts prescribed in the preceding three items, where all or part of the acts are committed overseas and all or part of the consequences occur within the territory of China; and

(5) acts of persons suspected of corruption fleeing overseas or transferring corrupt assets across borders.

Article 3 — Anti-cross-border corruption work shall adhere to the leadership of the Communist Party of China, adhere to the holistic approach to national security, adhere to the principle of no restricted zones, full coverage and zero tolerance in anti-corruption, adhere to addressing both symptoms and root causes and systematic governance, advance in an integrated manner the mechanisms of not daring to be corrupt, not being able to be corrupt and not wanting to be corrupt, and adhere to actively participating in global anti-corruption governance.

Article 4 — The People's Republic of China upholds respect for sovereignty, equality and mutual benefit, fairness and justice, and punishing evil and promoting good; advocates giving full play to the main-channel role of the United Nations Convention against Corruption in international anti-corruption cooperation; practices multilateralism; honors its commitments to cooperate in combating corruption; prevents and punishes the cross-border movement of corrupt persons and corrupt assets; opposes providing safe havens to corrupt persons and corrupt assets under any pretext; and pragmatically and efficiently carries out international cooperation such as the pursuit of fugitives, the recovery of proceeds and the return of assets.

Article 5 — Anti-cross-border corruption work shall strictly comply with the Constitution and laws, observe statutory procedures, respect and protect human rights, equally protect the lawful rights and interests of all types of business entities, maintain the normal order of cross-border operations, and create a market-oriented, rule-of-law-based and internationalized first-class business environment.

Article 6 — Where a foreign State violates international law and the basic norms of international relations, uses anti-corruption as a pretext or improperly applies its own laws extraterritorially, contains and suppresses China, takes discriminatory restrictions and other improper measures against Chinese citizens, enterprises and other organizations, and endangers China's sovereignty, security and development interests, China has the right to take countermeasures, blocking measures and other corresponding measures in accordance with the Anti-Foreign Sanctions Law of the People's Republic of China and other laws, regulations and relevant State provisions.

Chapter II — Mechanisms and Duties

Article 7 — The State establishes a working mechanism for anti-cross-border corruption to organize, coordinate and guide anti-cross-border corruption work, and performs the following duties:

(1) comprehensively studying and assessing the overall situation of anti-cross-border corruption, researching and formulating relevant policies, and formulating and publishing anti-cross-border corruption guidelines;

(2) coordinating the formulation of relevant systems for anti-cross-border corruption;

(3) coordinating law enforcement and judicial work for anti-cross-border corruption;

(4) guiding the relevant departments and localities in carrying out anti-cross-border corruption work;

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(5) urging the relevant competent departments to improve integrity and compliance management systems, and guiding the identification, assessment, early warning and response to cross-border corruption risks; and

(6) researching and resolving other major issues in anti-cross-border corruption work.

Article 8 — The national working mechanism for anti-cross-border corruption shall be led by the National Commission of Supervision; the diplomatic, public security, judicial administration, finance, commerce, anti-money-laundering administrative, audit, state-owned asset supervision and administration, financial supervision and administration, securities supervision and administration, cyberspace administration and other departments and bodies of the State Council, as well as other relevant organs, shall, in accordance with their duties and the division of tasks, strengthen work coordination and information sharing and jointly carry out anti-cross-border corruption work.

The body of the National Commission of Supervision that specifically performs anti-cross-border corruption duties shall be responsible for the daily work of the working mechanism, organize and coordinate the investigation and handling of major cross-border corruption cases in accordance with law, and carry out international cooperation against cross-border corruption together with the relevant organs.

The supervisory commissions of provinces, autonomous regions and municipalities directly under the Central Government shall take the lead in the anti-cross-border corruption work within their respective administrative regions. Provinces, autonomous regions and municipalities directly under the Central Government may, as needed, establish local working mechanisms for anti-cross-border corruption.

The supervisory bodies and supervisory commissioners dispatched or assigned by supervisory commissions at all levels shall, upon authorization by the dispatching organ, carry out work related to anti-cross-border corruption in accordance with law and within their administrative authority.

Article 9 — Supervisory organs, public security organs, procuratorial organs and adjudicatory organs shall, in accordance with law, perform the functions of state supervision, investigation, procuratorial work and adjudication in anti-cross-border corruption work. Where problems are found in the anti-cross-border corruption work of the relevant competent departments in the course of handling cases, they may put forward opinions and suggestions in writing to promote the strengthening of governance and the improvement of systems. The relevant competent departments shall handle the matters in a timely manner and give written feedback.

Article 10 — The commerce, state-owned asset supervision and administration, market supervision and administration, financial supervision and administration and other departments and bodies shall, together with supervisory organs and public security organs, establish and improve long-term mechanisms for industry anti-cross-border corruption, monitor, analyze and give early warning of cross-border corruption in the relevant industries and fields, and strengthen supervision and administration of industries and fields prone to cross-border corruption.

Relevant industry associations and chambers of commerce shall, in accordance with laws, regulations and their charters, play a coordinating and self-disciplinary role, guide their members in strengthening integrity and compliance building, provide their members with services such as information consultation and protection of rights and interests, and promote lawful cross-border operations in their industries.

Article 11 — The organs and entities responsible for the appointment and removal of public officials shall, in accordance with their administrative authority, strengthen the education, administration and supervision of public officials, and prevent and handle cross-border corruption by public officials in accordance with law.

Article 12 — Supervisory organs shall, together with the relevant organs, strengthen the supervision and rectification of public officials who acquire foreign nationality or obtain permanent residence status or long-term residence permits abroad in violation of regulations, improve the reporting system for public officials' overseas deposits and investments, and establish and improve the early warning mechanism,

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blocking mechanism and accountability mechanism for preventing persons suspected of corruption from fleeing overseas and transferring corrupt assets across borders.

Article 13 — The anti-money-laundering administrative department and other departments and bodies that lawfully perform anti-money-laundering supervision and administration duties shall, in accordance with law, guide financial institutions and specified non-financial institutions in strengthening the monitoring of cross-border funds.

Where the anti-money-laundering administrative department of the State Council or its dispatched bodies at or above the level of a city divided into districts discovers suspicious transaction activities suspected of involving cross-border corruption, it may carry out investigation in accordance with law and promptly transfer the clues and relevant evidentiary materials of cross-border corruption to the supervisory organs and public security organs.

Where information on cash and bearer payment instruments carried by persons entering or leaving the country, reported by the customs to the anti-money-laundering administrative department in accordance with law, is suspected of involving cross-border corruption crimes, the anti-money-laundering administrative department shall promptly transfer the relevant clues and evidentiary materials to the supervisory organs and public security organs.

Article 14 — Where the audit, finance, tax, financial supervision and administration and other departments discover, in the course of supervising and inspecting the relevant organizations and individuals in accordance with law, that the inflow and outflow of funds and the transfer of assets are suspected of involving cross-border corruption crimes, they shall promptly transfer the relevant clues and evidentiary materials to the supervisory organs and public security organs.

Article 15 — The relevant organs shall, in accordance with law, apply big data, artificial intelligence and other information-based means in anti-cross-border corruption work, integrate various types of supervision information resources, strengthen comprehensive analysis, research and assessment, promote timely risk early warning and accurate problem identification, and promptly collect and fix evidence.

The relevant organs and their staff shall, in accordance with law, bear the obligation of confidentiality with respect to state secrets, work secrets, trade secrets, personal privacy and personal information learned in the course of anti-cross-border corruption work.

Article 16 — The relevant organs shall organize publicity and education on anti-cross-border corruption through rule-of-law publicity and education and case-based legal interpretation and other means, so as to enhance the awareness and capacity of the whole society for anti-cross-border corruption.

News, radio, television, cultural and internet information service entities and others shall carry out targeted publicity and education on anti-cross-border corruption for the public.

The State encourages and supports qualified institutions of higher learning, scientific research institutions and others in carrying out research on anti-cross-border corruption and strengthening the education and training of professional talent.

Chapter III — Case Handling and International Cooperation

Article 17 — In the course of handling cross-border corruption cases, supervisory organs, public security organs and other relevant organs have the right to learn about the relevant circumstances from and collect and obtain evidence from the relevant organizations and individuals in accordance with law. The relevant organizations and individuals shall actively cooperate and truthfully provide the relevant evidentiary materials.

In the course of handling major cross-border corruption cases, supervisory organs, public security organs and other relevant organs may, in accordance with the principle of reciprocity, require foreign enterprises,

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other organizations and individuals to cooperate.

Article 18 — In order to prevent persons suspected of corruption from fleeing overseas, supervisory organs, public security organs and other relevant organs may, in accordance with the conditions and procedures prescribed by law, decide to take measures to restrict exit, which shall be executed by the immigration administration body in accordance with law. Where it is no longer necessary to continue taking exit restriction measures, they shall be promptly lifted.

Article 19 — Where necessary for anti-cross-border corruption work, supervisory organs, public security organs and other relevant organs may, in accordance with relevant State provisions, request the customs, immigration administration and other inspection organs to provide customs clearance convenience for the relevant persons. The relevant inspection organs shall provide assistance in accordance with law.

Article 20 — Supervisory organs, public security organs and other relevant organs shall, in accordance with the laws of China, the international treaties and agreements concluded or acceded to by China, or the principles of equality, mutual benefit and consensus through consultation, carry out law enforcement and judicial cooperation and mutual legal assistance such as the pursuit of fugitives, the recovery of proceeds, joint investigation, investigation and evidence collection, and information exchange with overseas relevant bodies, so as to jointly prevent and punish cross-border corruption.

Article 21 — In handling cross-border corruption cases, supervisory organs, public security organs and other relevant organs may, in accordance with law, request overseas relevant bodies to provide the following mutual legal assistance:

(1) locating and identifying the relevant persons;

(2) inquiring into and verifying information on the property and financial accounts involved in the case;

(3) obtaining and providing the testimony or statements of the relevant persons;

(4) obtaining and providing the relevant documents, records, electronic data and articles;

(5) obtaining and providing expert opinions;

(6) conducting inquests or inspections;

(7) searching persons, articles, residences and other relevant places;

(8) arranging witnesses to testify or assisting in investigation;

(9) sealing up, seizing or freezing the property involved in the case;

(10) confiscating or returning illegal gains and other property involved in the case;

(11) serving legal documents; and

(12) other matters of mutual legal assistance.

Article 22 — Evidentiary materials obtained by supervisory organs, public security organs and other relevant organs through channels such as law enforcement and judicial cooperation and mutual legal assistance may be used as evidence after examination confirms that they meet the statutory requirements, except where they shall not be used as evidence pursuant to international treaties, agreements or commitments.

Article 23 — Where supervisory organs, public security organs and other relevant organs discover in the course of handling cross-border corruption cases that the person under investigation or the criminal suspect has fled overseas, they may carry out fugitive-pursuit cooperation with overseas relevant bodies through extradition, transfer of sentenced persons, repatriation, overseas prosecution and other means, and pursue and capture the person in accordance with law.

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Article 24 — Supervisory organs, public security organs and other relevant organs may, with respect to cross-border corruption assets, carry out asset recovery in accordance with law through procedures such as law enforcement and judicial cooperation, mutual legal assistance and confiscation of illegal gains, as well as measures such as ordering restitution and accepting voluntary surrender.

Supervisory organs, public security organs and other relevant organs may, in accordance with the laws of China, the international treaties and agreements concluded or acceded to by China, or the principles of equality, mutual benefit and consensus through consultation, carry out cooperation with overseas relevant bodies in the return and sharing of assets.

Article 25 — The relevant organs shall, in accordance with the laws of China, the international treaties and agreements concluded or acceded to by China, or the principles of equality, mutual benefit and consensus through consultation, handle requests for law enforcement and judicial cooperation and mutual legal assistance in cross-border corruption made by overseas relevant bodies.

Without the consent of the relevant organs of China, overseas bodies, organizations and individuals shall not carry out law enforcement activities such as anti-cross-border corruption investigations within the territory of China by themselves or through others, and bodies, organizations and individuals within the territory of China shall not provide evidentiary materials, data and information and other relevant assistance to overseas bodies, organizations and individuals. Where the laws of China are violated, blocking and other corresponding measures shall be taken in accordance with relevant State provisions, and legal liability shall be pursued in accordance with law.

Article 26 — With respect to cross-border corruption cases in which China is conducting an investigation, criminal investigation, prosecution or trial, in which an effective judgment has been rendered, in which the criminal procedure has been terminated, in which the crime has passed the limitation period for prosecution, or in which there are other circumstances under which mutual legal assistance may not be provided in accordance with law, the relevant organs may refuse to provide assistance to overseas relevant bodies.

Article 27 — The relevant organs shall strengthen international information exchange and experience sharing on anti-corruption with overseas relevant bodies, and directly provide or support international organizations in providing anti-corruption technical assistance and training to relevant countries and regions, so as to help them improve their capacity to prevent and combat corruption.

Article 28 — Any organization or individual has the right to report cross-border corruption. The relevant organs shall handle the reports in a timely manner in accordance with law, keep the reporters confidential, and reward and protect, in accordance with regulations, the reporters who provide effective information.

Chapter IV — Integrity and Compliance

Article 29 — Enterprises engaged in cross-border operations shall comply with the requirements of the laws and regulations of China, regulatory provisions and relevant international treaties and agreements, observe commercial ethics, professional ethics, industry standards and codes of conduct, carry out business operations with integrity and in compliance, and urge and guide their overseas branches and subsidiaries to comply with the relevant laws of the countries or regions where they are located.

For the purposes of this Law, "enterprises engaged in cross-border operations" means domestic enterprises that establish branches or subsidiaries overseas or carry out investment activities overseas, and branches and subsidiaries established within the territory of China by overseas enterprises.

Article 30 — Enterprises engaged in cross-border operations shall establish and improve integrity and compliance management systems, improve integrity and compliance operation mechanisms, promptly investigate and handle violations, and run integrity and compliance management through the entire process of decision-making, execution and supervision of cross-border operations.

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Domestic enterprises engaged in cross-border operations shall, in light of factors such as enterprise scale, business scope and risk prevention and control, rationally set up integrity and compliance management departments or personnel, and may formulate separate integrity and compliance management systems for their cross-border business departments and overseas branches and subsidiaries, dispatch integrity and compliance commissioners to overseas bodies in light of actual circumstances, and formulate guidelines and checklists for the performance of duties by integrity and compliance commissioners.

Article 31 — Enterprises engaged in cross-border operations shall carry out identification and assessment of integrity risks in cross-border operations, improve the internal reporting mechanism, promptly warn of and properly handle the integrity risks discovered, and take targeted monitoring and improvement measures. Where suspected cross-border corruption problems are discovered, they shall report or file cases with the supervisory organs, public security organs and other relevant organs in accordance with law.

State-owned enterprises shall strengthen the prevention and control of integrity risks in key overseas positions, major funds and major projects, and take measures such as directly dispatching overseas financial officers, rotating stationed personnel and avoiding conflicts of interest in accordance with relevant provisions, so as to strengthen the supervision and administration of their overseas employees, funds and projects.

Article 32 — Enterprises engaged in cross-border operations shall establish and improve financial and accounting systems in accordance with law, ensure that the accounting vouchers, accounting books, financial and accounting reports and other accounting materials of cross-border operations are truthful and complete, and shall not use financial and accounting means to commit, conceal or cover up cross-border corruption.

Domestic enterprises engaged in cross-border operations shall strengthen the financial administration of their cross-border business departments and overseas branches and subsidiaries, standardize accounting, strengthen internal audit, and promote the improvement of integrity and compliance management levels.

Article 33 — Enterprises engaged in cross-border operations shall carry out due diligence on the third-party bodies or individuals they employ, conduct supervision and administration, establish and improve the relevant integrity risk prevention mechanisms, and require the third-party bodies or individuals representing the enterprise to strictly observe the enterprise's integrity and compliance codes of conduct. It is prohibited to use third-party bodies or individuals to commit cross-border corruption.

Domestic enterprises engaged in cross-border operations shall require their overseas branches and subsidiaries to implement the enterprise's supervision and administration system regarding third-party bodies or individuals.

Article 34 — Enterprises engaged in cross-border operations shall strengthen integrity education for their employees and promote the strengthening of employees' awareness of integrity in their work.

Domestic enterprises engaged in cross-border operations shall advocate and promote the building of a corporate integrity culture, provide integrity and compliance training to employees of their cross-border business departments and overseas branches and subsidiaries, and promote their understanding of and compliance with the enterprise's integrity and compliance management systems and risk prevention and control requirements.

Chapter V — Legal Liability

Article 35 — Where enterprises, other organizations or individuals commit cross-border corruption that constitutes a crime prescribed by the Criminal Law of the People's Republic of China, criminal liability shall be pursued in accordance with law.

Article 36 — Where enterprises, other organizations or individuals commit cross-border corruption that violates the order of administrative management and should be subject to administrative penalties, the

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relevant competent departments shall impose administrative penalties in accordance with law, and shall impose administrative penalties in accordance with law on the directly responsible persons in charge and other directly responsible persons of the enterprises and other organizations.

After the handling of a cross-border corruption case is concluded, where the person under investigation or the criminal suspect should be given administrative penalties, the supervisory organs, public security organs and other relevant organs shall transfer the case to the relevant competent departments in accordance with law.

Article 37 — Where public officials commit cross-border corruption, they shall be given sanctions by the supervisory organs or their appointment and removal organs or entities in accordance with law.

Where enterprises or other organizations commit cross-border corruption, the public officials among the responsible leading personnel and directly responsible persons shall be given sanctions in accordance with law.

Article 38 — Where enterprises, other organizations or individuals commit cross-border corruption that causes property losses or other damage, they shall bear civil liability in accordance with law.

Article 39 — Where enterprises, other organizations or individuals are punished for violating this Law, the matter shall be recorded in their credit records in accordance with relevant State provisions; where laws or administrative regulations contain prohibitive or restrictive provisions on their engaging in the relevant business or profession, those provisions shall prevail.

Article 40 — Where enterprises, other organizations or individuals commit cross-border corruption, their illegal gains from the crimes or violations and the fruits and proceeds thereof shall be confiscated, recovered or ordered to be restituted in accordance with law.

Article 41 — Where cross-border corruption is committed jointly, punishment or sanctions shall be imposed separately according to the role played by each actor in the joint violation or joint crime and the legal liability they should bear.

Anyone who instigates or assists others in committing cross-border corruption shall be punished or sanctioned in accordance with the act they instigated or assisted.

Article 42 — Where enterprises, other organizations or individuals commit cross-border corruption and have any of the following circumstances, heavier administrative penalties or sanctions shall be imposed:

(1) committing cross-border corruption multiple times;

(2) committing cross-border corruption again after having been pursued for legal liability for cross-border corruption;

(3) refusing to surrender or restitute illegal gains;

(4) causing serious harmful consequences to national interests or the public interest through cross-border corruption;

(5) retaliating against accusers, reporters or witnesses; or

(6) other circumstances prescribed by laws or regulations for the imposition of heavier administrative penalties or sanctions.

Article 43 — Where enterprises, other organizations or individuals commit cross-border corruption and have any of the following circumstances, lighter or mitigated administrative penalties or sanctions may be imposed:

(1) voluntarily surrendering and truthfully confessing;

(2) actively cooperating with the investigation and proactively providing relevant materials;

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(3) proactively taking remedial measures, actively returning the proceeds of corruption, and effectively reducing or avoiding losses;

(4) reporting and exposing the cross-border corruption of others, which is verified to be true; or

(5) other circumstances prescribed by laws or regulations under which lighter or mitigated administrative penalties or sanctions may be imposed.

Article 44 — Where the relevant organizations or individuals violate this Law by refusing to provide evidentiary materials, concealing, forging or destroying evidence, or refusing or obstructing cross-border corruption investigations, they shall be ordered to make corrections by their employing entities, competent departments, higher-level organs, supervisory organs or public security organs. Where the act constitutes a violation of public security administration, public security administrative penalties shall be imposed in accordance with law; where the act constitutes a crime, criminal liability shall be pursued in accordance with law.

Article 45 — Where an enterprise engaged in cross-border operations fails to perform its integrity and compliance obligations under this Law, the relevant competent department shall order it to make corrections within a prescribed time limit; where it refuses to make corrections, the relevant competent department may order it to suspend the relevant business, suspend operations for rectification or revoke the relevant business license. Where the above act simultaneously violates other laws and regulations, legal liability shall be pursued in accordance with law.

Article 46 — Where staff members of supervisory organs, public security organs and other relevant organs abuse their power, neglect their duties or engage in malpractice for personal gain in anti-cross-border corruption work, or disclose state secrets, work secrets, trade secrets, personal privacy and personal information in violation of regulations, they shall be given sanctions in accordance with law. Where the act constitutes a crime, criminal liability shall be pursued in accordance with law.

Chapter VI — Supplementary Provisions

Article 47 — This Law shall come into force on the date of promulgation.

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